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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,018	06/01/2001	Mitchell T. Berg	29820.6	3220
500	7590	11/21/2005		
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 6300 SEATTLE, WA 98104-7092				
			EXAMINER PATEL, NIKETA I	
			ART UNIT 2181	PAPER NUMBER

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/873,018	Applicant(s) BERG, MITCHELL T.	
	Examiner Niketa I. Patel	Art Unit 2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-24 and 35-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-24 and 35-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/31/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11-24, 49-51 and 55-67 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 11 (at line 4), claim 55 (at line 3) and claim 62 (at line 3) recites the limitation of “*an information packet from a global computer network and a first local area network*”. It is unclear to the examiner as to how a packet is capable of originating from two different places at the same time. If the applicant intends to claim that the packet travels through both a global computer network and a first local area network then such a claim language need to be positively recited.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 11-24, 49-51, 35-48, 52-68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 (at lines 5-6), claim 35 (at line), claim 55 (at line), and claim 62 (at line), recites the limitation of “in response to at least the information packet and a state of the information processing system” however the applicant fails to recite the

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action which need to be performed in response to at least the in information packet and a state of the information processing system. Furthermore, the applicant needs to positively recite that the action is being performed in response **the received information packet** instead of simply reciting “in response to at least the information packet.”

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. As far as the examiner can interpret the claims in light of the 35 U.S.C. 112 rejections, supra, claims 11-18, 20-24, 35-42, 44-48, 49-57, 59-64 and 66-68 are rejected under 35

U.S.C. 102(e) as being anticipated by Rao et al. U.S. Patent Number: (hereinafter referred to as “Rao”).)

7. **Referring to claims 11, 35, 55 and 62, Rao** teaches an information processing system, comprising: a first computing device configured to: receive an information packet [see column 4, lines 55-67 and column 5, lines 18-25], from a global computer network and a first local area network [see column 5, lines 18-25, Internet and column 2, lines 8-26 and column 9, lines 27-67], in response to at least the information packet and a state of the information processing system [see column 7, lines 17-49 and column 9, lines 27-67 and column 10, lines 61-67 and column 11, lines 1-5], when the state of the information processing system is a first state,

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selectively output the information packet, such that the output information packet bypasses the first local area network; [see column 2, lines 8-26 and column 9, lines 27-67] and when the state of the information processing system is a second state, selectively execute a software application associated with the information packet [see column 7, lines 17-49, FM 10 or SCM 14 has a manager for managing the system, a software applicant is needed to manage a system and column 8, lines 53-67, 'application software' and column 9, lines 1-26.]

8. **Referring to claims 12, 36, 59, Rao** teaches wherein the first computing device comprises a network interface card [see column 4, lines 55-63.]

9. **Referring to claims 13, 37, 63, Rao** teaches wherein the received information packet originates from a client, and wherein the first local area network is coupled to the global computer network to the client [see column 5, lines 18-24.]

10. **Referring to claims 14, 38, 60, 64, Rao** teaches wherein the information packet originates from a client, and wherein the first computing device is configured to: in response to at least the information packet and the state of the information processing system, selectively output the information packet by outputting an encapsulated information packet, the encapsulated information packet including the information packet and a reference to a data structure of a connection with the client [see column 2, lines 8-26 and column 5, lines 18-24 and column 9, lines 27-67.]

11. **Referring to claims 15, 39, Rao** teaches wherein the reference is included within a single header of the encapsulated information packet [see column 11, lines 51-58.]

12. **Referring to claims 16, 40, 66, Rao** teaches wherein the first computing device is configured to: in response to at least the information packet and the state of the information

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processing system, selectively output the information packet to a second computing device for performing an operation in response to the information packet [see column 2, lines 8-26.]

13. **Referring to claims 17, 41, Rao** teaches wherein the information packet originates from a client, wherein the first local area network is coupled through the global computer network to the client, wherein the operation includes outputting a response packet to the client through the first local area network and the global computer network [see column 2, lines 8-26 and column 5, lines 18-24 and column 9, lines 27-67], and wherein the first computing device is configured to: in response to at least the information packet and the state of the information processing system, selectively output the information packet to the second computing device for outputting the response packet to the client, such that the output response packet bypasses the first computing device [see column 2, lines 8-26 and column 5, lines 18-24 and column 9, lines 27-67.]

14. **Referring to claims 18, 42, Rao** teaches wherein the operation is part of a software application executed by the second computing device [see column 2, lines 40-49 and column 3, lines 27-34.]

15. **Referring to claims 20, 44, 50, 53, 56, 57, Rao** teaches wherein the information packet is addressed by the client to the first computing device, and wherein the first computing device is configured to receive the information packet through the first local area network in response to the addressing [see column 28, lines 14-30.]

16. **Referring to claims 21, 45, 49, 51, 52, 54, 67, 68, Rao** teaches wherein the first computing device is configured to receive at least a portion of the state of the information processing system from the second computing device and a second local area network [see column 9, lines 8-26.]

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17. **Referring to claims 22, 46, Rao** teaches wherein the first local area network includes a hub [see column 2, lines 8-26.]
18. **Referring to claims 23, 47, Rao** teaches wherein the first local area network includes a Layer 2 switch, and wherein the Layer 2 switch is coupled to a router device to the global computer network [see column 2, lines 8-26.]
19. **Referring to claims 24, 48, 61, Rao** teaches wherein the first local area network includes a Layer 3 switch, and wherein the Layer 3 switch is coupled to the global computer network [see column 2, lines 8-26.]

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. As far as the examiner can interpret the claims in light of the 35 U.S.C. 112 rejections, supra, claims 19, 43, 58 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al. U.S. Patent Number: (hereinafter referred to as “Rao”).
22. **Referring to claims 19, 43, 58 and 65, Rao** teaches software applications to perform operations [see column 2, lines 40-49 and column 3, lines 27-34] however does not set forth the limitation of wherein the software application is a socket application executed by the second computing device.

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It would have been obvious to one of ordinary skill in the art at the time of applicant's invention that it was old and well known in the computer art to get the advantage of allowing a user (client) to communicate with a server application in client/server networking via the use of socket application. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include socket application to get this advantage.

Response to Arguments

23. Applicant's arguments filed 09/01/2005 have been fully considered but they are not persuasive. The applicant argues that the neither the forwarding module 10 nor the system control module 14 of *Rao* discloses "selectively execute a software application" at page 11 under the "REMARKS" section. The examiner respectfully disagrees with the applicant. *Rao* discloses selectively executing a software applicant [see column 8, lines 53-67 and column 9, lines 1-26, 'application software components register with FTAM identifying events to be monitored, when a fault is detected, the FTAM notifies all applications that have resisted for that type of event, the FTAM and the applications then take corrective action'.]

Conclusion

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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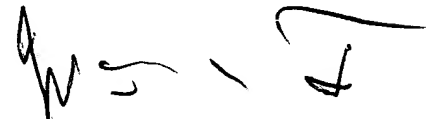
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272 4083. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP
11/09/2005



WILLIAM M. TREAT
PRIMARY EXAMINER